

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Applications 21587,
21588, 21589 and 21590 of Rollin and
Arline A. Reeves to appropriate from
Swamp Creek and three unnamed tribu-
taries in Monterey County

Decision D 1264

DECISION APPROVING APPLICATIONS

Applications 21587, 21588, 21589 and 21590 of Rollin and Arline A. Reeves having been filed; protests having been received; a public hearing having been held before the State Water Rights Board on March 16, 1965, conducted by Board Chairman Kent Silverthorne and Board Member W. A. Alexander; a further hearing having been held on June 9, 1966, on petitions to change the place and character of use under Applications 21587 and 21588 and to receive additional evidence on water salvaged; applicants and protestants having appeared and presented evidence; the evidence received at the hearings having been duly considered; the Board finds as follows:

1. Application 21587 is for a permit to appropriate a total of 11.2 acre-feet per annum (afa) by storage at four reservoirs from November 1 of each year to April 30 of the succeeding year for stockwatering purposes. The water is to be stored in Reservoirs Nos. 1, 3 and 4 on Swamp Creek, which have capacities of 6.6 acre-feet (af), 0.9 af and 3.1 af, respectively, and Reservoir No. 2 on an unnamed stream

tributary to Swamp Creek, which has a capacity of 0.6 af. The points of diversion are located within the NW $\frac{1}{4}$ of SE $\frac{1}{4}$, SW $\frac{1}{4}$ of NE $\frac{1}{4}$, SE $\frac{1}{4}$ of NW $\frac{1}{4}$ and NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 7, T14S, R5E, MDB&M.

Application 21588 is for a permit to appropriate a total of 31.4 afa by storage at four reservoirs from November 1 of each year to April 30 of the succeeding year for stockwatering, irrigation and recreational purposes. The water is to be stored in Reservoirs Nos. 5 and 6 on Swamp Creek, which have capacities of 15.6 af and 13.0 af, respectively, and Reservoirs Nos. 8 and 9 on an unnamed tributary to Swamp Creek, which have capacities of 1.8 af and 1.0 af, respectively. The points of diversion are located within the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 7 and in the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ and the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 6, T14S, R5E, MDB&M.

Application 21589 is for a permit to appropriate a total of 2.1 afa by off-stream storage at Reservoir No. 7 on an unnamed stream tributary to Swamp Creek from November 1 of each year to April 30 of the succeeding year for stockwatering and irrigation purposes. The point of diversion is located within the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 6, T14S, R5E, MDB&M.

Application 21590 is for a permit to appropriate 1.7 afa by storage at Reservoir No. 12 on an unnamed stream tributary to Swamp Creek from November 1 of each year to April 30 of the succeeding year for stockwatering and fish

culture purposes. The point of diversion is located within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 36, T13S, R4E, MDB&M.

2. On May 26, 1965, the applicants filed a petition to amend Application 21587 by adding irrigation and recreation uses and to amend Application 21588 by adding domestic use and an additional 16 acres to be irrigated. The proposed changes will not operate to the injury of any lawful user of water and should be approved.

3. During the years 1941 through 1950, the applicants constructed the reservoirs covered by Applications 21587, 21588, 21589 and 21590 on Swamp Creek and tributaries in the upper Gabilan Creek watershed. The water has been used and will continue to be used for the irrigation of approximately 27 acres of pasture, for stockwatering, recreational and fish culture purposes at the reservoirs, and for domestic use and fire protection.

4. The Gabilan Creek watershed heads to the east of Fremont State Park at the drainage divide between San Benito and Monterey Counties. Swamp Creek joins Gabilan and Beartree Creeks at a junction referred to as the "Hub" and flows from that point as Gabilan Creek in a general southwesterly direction approximately 3 miles, then in a northeasterly direction approximately 5 miles, to join Mud Creek. Gabilan Creek continues southerly from Mud Creek junction approximately 6 miles to empty into Carr Lake.

5. There are no records of the flows of Gabilan Creek and its tributaries. The rainfall records show that the total Gabilan Creek watershed produces a rain crop that averages 32,700 afa. Based on a 20 percent runoff factor, the total runoff of Gabilan Creek averages 6,500 afa (Vol. 1, RT. 17, 18). Approximately 90 percent of the runoff occurs between November 1 and April 30, the applicants' diversion season (State Water Resources Board Bulletin No. 1). On July 21, 1965, the only water present in the Swamp Creek stream system was water in the applicants' reservoirs, a small flow into Reservoir No. 12, seepage from the dams, and flow from a spring used by the applicants for domestic purposes. The flow of the spring, along with the seepage below Dam No. 3, was between two and three gallons per minute.

6. Protestants Agostini, et al, Domingos, Vierra, Alexander, Bardin, Darrington, Jacobsen, Elliot, and Purrier own or lease lands bordering Gabilan Creek extending from immediately below the applicants' property to just above Carr Lake. They divert directly from Gabilan Creek and pump from wells located along the creek. The water from the creek is used for irrigation, stockwatering, and domestic uses under claimed pre-1914 and riparian rights. Their supply has been diminishing in recent years. There is not sufficient water to irrigate lands that were formerly irrigated and the quality of water for domestic use has deteriorated.

Protestants Bardin and Alexander also irrigate from wells approximately 700 feet in depth, extracting water from the Salinas ground water basin (Eastside subarea) to which they claim overlying rights. They claim that water from the Gabilan Creek area supplies this ground water basin and that it is in a state of overdraft.

7. The protestants have no storage facilities and divert from Gabilan Creek only for domestic use and stockwatering during the period November to June. There is sufficient water for such purposes during this period. The diversion to storage by applicants of approximately 46 acre-feet of water during the winter season has no appreciable effect on the flow of the creek during the summer months. The gradual diminution of the supply of water available to protestants from Gabilan Creek during the past several years is more properly attributable to the gradual encroachment of phreatophytes along the creek streambed and brush and tree growth on the watershed than to the applicants' storage reservoirs.

8. Portions of the Salinas ground water basin are in a condition of overdraft. The estimated present overdraft of the Eastside subarea of this ground water basin from which the protestants Bardin and Alexander pump is 27,000 afa (Protestants' Exh. 9, Division of Water Resources Bulletin 32),

No water from the Gabilan Creek watershed wastes into Carr Lake in approximately four out of five years, indicating that there is no water surplus to that which recharges the ground water basin during those years. Although the 46 afa of water stored by the applicants would have little effect on relieving the overdrawn condition of the ground water basin, there would be no unappropriated water available to satisfy the applicants in most years except for water which the applicants claim to have salvaged through a range management program involving the removal of brush and phreatophytes, and swamp drainage.

9. The applicants have cleared approximately 60 acres of phreatophytes along Swamp Creek and approximately 120 acres of hillside brush and trees, which have now been replaced by shallow-rooted grasses. They have also drained swamp areas. As shallow-rooted plants or plants with short life spans have replaced deep-rooted or evergreen plants, the amount of water stored in the soil reservoir at the end of the growing season has increased. Less precipitation is now required to refill the soil reservoir, resulting in additional winter runoff. Water is also salvaged by reducing plant interception of rainfall. This salvaged water is available for appropriation by the applicants.

Protestants contend that any clearing and drainage work done by the applicants has resulted in the salvage of

only a small fraction of the water covered by their applications. This conclusion is based principally on experiments to determine the amount of water salvaged by clearing trees and burning brush conducted under the supervision of their expert witness at test plots in the Sierra Nevada and Coast Range Mountains (Vol. 2, RT 112). A critical factor in determining the amount of water salvaged is the water storage capacity of the soil involved. The applicants made over 100 borings in the area under consideration, which indicated that the water storage capacity of the soils in the upper Gabilan Creek watershed is much greater than the water storage capacity of the soils in the experimental plots used in the studies supervised by the protestants' expert witness (Vol. 2, RT 207, 208, 209). The applicants have shown that their range management program has salvaged water greatly in excess of the amount covered by the subject applications.

9. Unappropriated water is available to supply the applicants and, subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

10. The intended use is beneficial.

11. Permits issued to the applicants should contain a term requiring them to continue their range management

program by maintaining the former uncleared areas free from trees, brush and phreatophytes.

From the foregoing findings, the Board concludes that Applications 21587, 21588, 21589 and 21590 should be approved and that permits should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

ORDER

IT IS HEREBY ORDERED that the petitions to amend Application 21587 by adding irrigation and recreation uses and to amend Application 21588 by adding domestic use and an additional 16 acres to be irrigated be, and they are, granted.

IT IS FURTHER ORDERED that Applications 21587, 21588, 21589 and 21590 be, and they are, approved, and that permits be issued to the applicants subject to vested rights and to the following limitations and conditions:

1.(a) The water appropriated pursuant to Application 21587 shall be limited to the quantity which can be beneficially used and shall not exceed 6.6 acre-feet per annum (afa) at Reservoir No. 1, 0.6 afa at Reservoir No. 2, 0.9 afa at Reservoir No. 3, and 3.1 afa at Reservoir No. 4, for a total of 11.2 afa by storage to be collected from about November 1 of each year to about April 30 of the succeeding year.

(b) The water appropriated pursuant to Application 21588 shall be limited to the quantity which can be beneficially used and shall not exceed 15.6 afa at Reservoir No. 5, 13.0 afa at Reservoir No. 6, 1.8 afa at Reservoir No. 8, and 1.0 afa at Reservoir No. 9, for a total of 31.4 afa by storage to be collected from about November 1 of each year to about April 30 of the succeeding year.

(c) The water appropriated pursuant to Application 21589 shall be limited to the quantity which can be beneficially used and shall not exceed 2.1 afa by off-stream storage to be collected at Reservoir No. 7 from about November 1 of each year to about April 30 of the succeeding year.

(d) The water appropriated pursuant to Application 21590 shall be limited to the quantity which can be beneficially used and shall not exceed 1.7 afa by storage at Reservoir No. 12 from about November 1 of each year to about April 30 of the succeeding year.

2. This permit does not authorize collection of water to storage outside the specified season to offset evaporation and seepage losses or for any other purpose.

3. After the initial filling of the storage reservoir, permittee's right under the permit issued pursuant to Application 21590 extends only to water necessary to keep the reservoir full by replacing water beneficially used, water lost by evaporation or seepage, and to refill if emptied for necessary maintenance or repair.

4. The maximum quantity herein stated may be reduced in the license if investigation warrants.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1970.

6. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

7. All rights and privileges under this permit, including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

8. Permittee shall allow representatives of the State Water Rights Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

9. Water entering the reservoirs or collected in the reservoirs during and after the current storage season shall be released into the downstream channel to the extent necessary to satisfy downstream prior rights and to the extent that appropriation of water is not authorized under this permit. Permittee shall install and maintain outlet pipes of adequate capacity in his dams as near as practicable to the natural stream channel, or provide other means satisfactory

to the State Water Rights Board to comply with this paragraph.

10. Permittee shall maintain the existing range management program involving approximately 181 acres as outlined on applicants' Exhibit No. 7 submitted at the hearing on Applications 21587, 21588, 21589 and 21590.

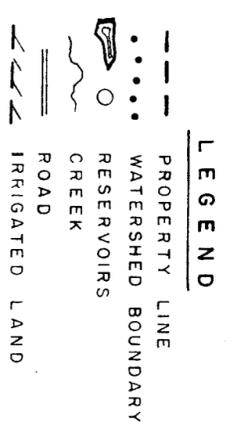
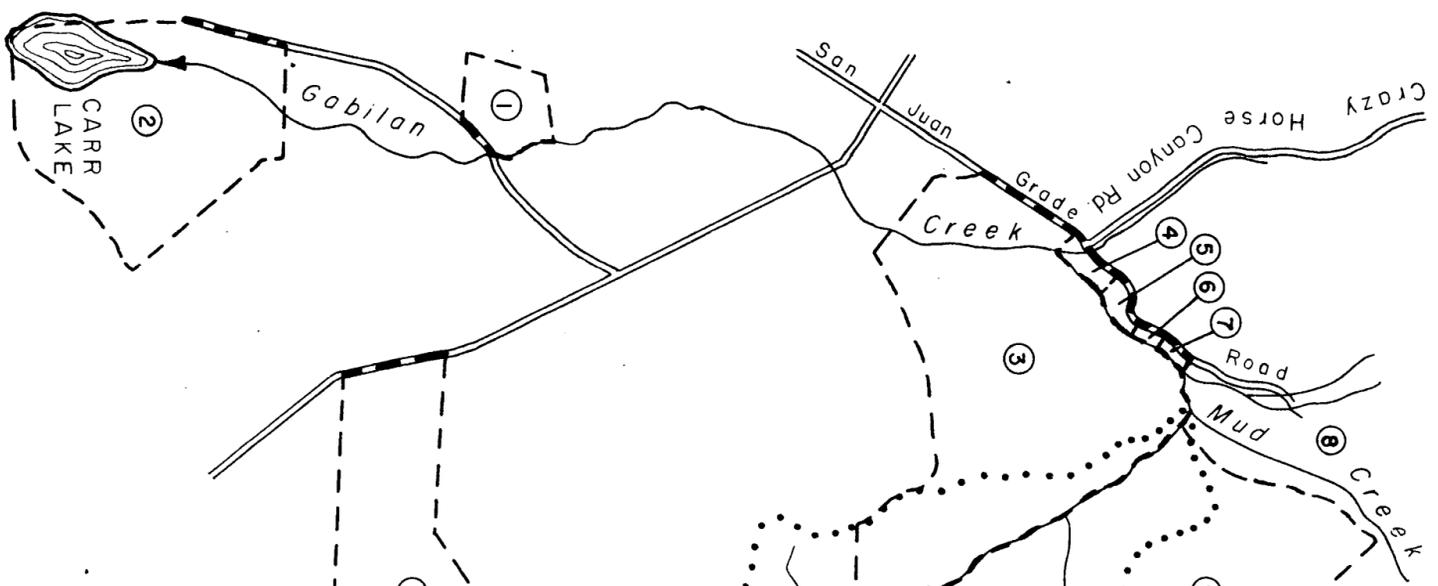
Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California.

Dated: FEB 15 1967

/s/ Kent Silverthorne
Kent Silverthorne, Chairman

/s/ Ralph J. McGill
Ralph J. McGill, Member

/s/ W. A. Alexander
W. A. Alexander, Member



Scale 1" = 4000'

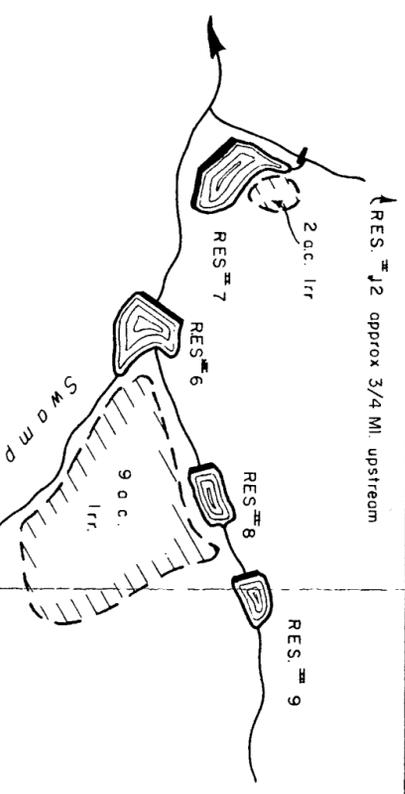
- PROPERTY NAMES**
- ① ALEXANDER
 - ② BARDIN
 - ③ DOMINGOS
 - ④ JACOBSEN
 - ⑤ ELLIOT
 - ⑥ PURRIER
 - ⑦ DARINGTON
 - ⑧ AGOSTINI
 - ⑨ VIERRA
 - ⑩ REEVES



SEE ENLARGEMENT

NAME	Old No.	RESERVOIRS	New No.	CAPACITY	APPLICATION
				d.f.	
CAT FISH LAKE	1	Abandoned*	1	6.6	21587
PEAR FISH LAKE	2	Abandoned*	2	0.8	21587
BULL FIELD POND	3	Abandoned*	3	0.9	21587
UPPER MEADOW LAKE	4	Abandoned*	4	3.1	21587
UPPER HOUSE LAKE	5	Abandoned*	5	15.6	21588
LAUREL TREE LAKE	6	Abandoned*	6	13.0	21588
FROG POND LAKE	7	Abandoned*	7	1.0	21588
SWIMMING POOL LAKE	8	Abandoned*	8	1.8	21588
QUANSET HUT POND	9	Abandoned*	9	1.0	21588
HUNTER CABIN LAKE	10	Abandoned*	10	1.7	21590
OAK TREE LAKE	12	Abandoned*	12		

* PETITION MAP DATED 5/5/65
RECEIVED 5/26/65



MONTEREY CO.
Base Aerial Photo A.B.G. 20R-29
Dated 6/16/56

Scale - 1" = 600'

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD
APPLICATIONS
21587 · 21588
21589 · 21590

DATE 11/19/65
DRAWN e.c.w.
CHECKED A.L.F.
DWG 2658